

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

**ORIGINAL**

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*Federal Communications Commission  
Office of Secretary*

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In the Matter of:

Policies and Rules Pertaining to  
Imposition by Local Exchange Carriers  
"Freezes" on Consumer Choices of  
Primary Local Exchange or  
Interexchange Carriers

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) CCB/CPD 97-19  
) RM - 9085  
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To: The Commission

**REPLY COMMENTS**

MCI Telecommunications Corporation (MCI), hereby replies to the comments filed in response to its request that the Commission institute a rulemaking to regulate the solicitation, by any carrier or its agent, of primary interexchange carrier (PIC) "freezes" or other carrier restrictions on the switching of a consumer's primary interexchange (interLATA and intraLATA toll) and local exchange carrier (LEC).

The comments support MCI's contention that Commission action is needed to ensure that LEC practices in soliciting, implementing and removing PIC freezes do not impede competition. As demonstrated by MCI and other competitive carriers, incumbent LECs can, have and are using the PIC freeze mechanism to lock in their own customers and to impede effective competition, particularly in the local and intraLATA toll markets they currently dominate.<sup>1</sup> For example, Ameritech's solicitation of a PIC freeze that failed to disclose to customers that their selection of this option would also freeze the customers' intraLATA toll and local carrier-- just as

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<sup>1</sup> AT&T Comments at 2-5; Sprint Comments at 5-9; Cable and Wireless Comments at 2; and Competitive Telecommunications Associations (CompTel) Comments at 2, 4-5.

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intraLATA presubscription was being introduced-- was found to be misleading and anticompetitive by the Michigan Public Utility Commission. AT&T and MCI have initiated legal action against Southern New England Telephone Company (SNET) for its misuse of PIC freeze mechanisms which have resulted in an exceptionally high level of carrier change rejections in SNET's service territory<sup>2</sup> --- and as demonstrated by AT&T, affected customers were either unaware of, or denied, having authorized freezing their carrier selections.<sup>3</sup> And, it is MCI's understanding that NYNEX allows three-way conference calls to remove a PIC freeze for interLATA calls-- for which it does not currently compete-- however, it will not allow the use of this procedure to remove intraLATA PIC freezes.

Moreover, as a result of the recent changes in the telecommunications industry brought about by the 1996 Act-- namely, potential RBOC entry into the interexchange services market and the advent of competition in the intraLATA and local markets--- LECs now have the incentive to use PIC freezes in an anticompetitive manner.<sup>4</sup> Thus, although PIC freezes, if properly implemented, can be a tool to prevent unauthorized conversions, the LECs can no longer be assumed to be neutral and unbiased administrators of PIC freezes. Accordingly, the Commission must provide guidance on the proper procedures for implementing and removing PIC freezes and, specifically, it should adopt the rules proposed by MCI. In addition, to ensure that the PIC freeze mechanism is not used to frustrate intraLATA toll and local competition before it has a chance to fully develop, MCI supports AT&T's call for a prohibition against

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<sup>2</sup> AT&T Comments at 5.

<sup>3</sup> AT&T Comments at 5.

<sup>4</sup> Sprint Comments at 2; AT&T Comments at 2-3.

solicitation and implementation of local carrier selection freezes by the dominant local carrier and a prohibition against solicitation on intraLATA PIC freeze commitments by incumbent LECs for one year following the availability of 1+ intraLATA toll dialing parity.<sup>5</sup> The California PUC has prohibited LECs from soliciting PIC freezes during the introduction of intraLATA presubscription in California, and the Commission should apply this to all LECs nationwide. In the long run, however, as indicated by Sprint, the solution may be to assign the responsibility for the administration of the PIC freeze process to a neutral third party.<sup>6</sup>

The comments of the incumbent LECs also highlight the need for Commission guidance in the administration of PIC freezes. For the most part, the incumbent LECs oppose MCI's petition, however, in doing so, they prove MCI's contention that the mechanics of enrolling in PIC freeze programs vary by LEC, as do the methods customers must use to release those restrictions, thus burdening consumers and carriers. For example, Southwestern Bell Telephone Company (SWBT) states that to change carriers once a PIC freeze is in place, SWBT sends the customer a letter confirming the PIC change request which the customer must sign and return before SWBT will process the request.<sup>7</sup> However, Pacific Bell and Nevada Bell require the customer to contact one of their representatives and identify themselves by providing personal information which is noted in the credit history of the end user's account.<sup>8</sup> And, BellSouth Telecommunications, Inc. (BellSouth) offers a 3-way conference call option between BellSouth,

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<sup>5</sup> AT&T Comments at 6.

<sup>6</sup> Sprint Comments at 13.

<sup>7</sup> SWBT, Pacific Bell, and Nevada Bell Opposition at 7.

<sup>8</sup> SWBT, Pacific Bell, and Nevada Bell Opposition at 8.

the customer and the new primary carrier.<sup>9</sup> Commission rules would ensure uniformity and predictability for consumers and carriers with respect to the implementation and removal of PIC freezes.

In any event, the arguments of incumbent LECs opposing a rulemaking to establish PIC freeze practices are without merit. Specifically, the LECs argue that PIC freeze mechanisms are necessary to protect the public from unauthorized conversions;<sup>10</sup> any problems with particular LEC practices should be addressed through the complaint process;<sup>11</sup> and the Commission should only consider the issue of PIC freezes in the context of its broader rulemaking to implement the PIC verification language in Section 258 of the Act.<sup>12</sup>

MCI does not dispute the fact that proper PIC freeze mechanisms can be beneficial to consumers. However, as demonstrated herein, a rulemaking is necessary to determine the limits and parameters of PIC freeze mechanisms such that they are beneficial to consumers without being harmful to competition. The complaint process is not the appropriate vehicle to determine the parameters of PIC freeze mechanisms because a Commission decision in a complaint action would be limited to the parties and the facts presented in the complaint. As demonstrated by MCI, rules and procedures applicable to all carriers need to be developed in connection with PIC freezes-- which is appropriately accomplished through a rulemaking. Finally, the Commission should not delay the implementation of rules governing PIC freeze procedures in order to

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<sup>9</sup> BellSouth Comments at 3.

<sup>10</sup> SNET Comments at 4

<sup>11</sup> Bell Atlantic and NYNEX Comments at 3-4; GTE Service Corporation Comments at 6.

<sup>12</sup> BellSouth Comments at 3.

incorporate this issue in a 258 proceeding because PIC freeze abuses are occurring now which have the effect of impeding the development of competition. Therefore, the Commission must go forward with a rulemaking as outlined by MCI immediately.

Based on the foregoing and on MCI's Petition for Rulemaking, MCI respectfully requests that the Commission adopt a rule governing PIC freeze procedures as indicated therein.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:

A handwritten signature in cursive script, appearing to read "Mary J. Sisak", is written over a horizontal line.

Mary J. Sisak

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Dated: June 19, 1997

**CERTIFICATE OF SERVICE**

I, Sylvia Chukwuocha, do hereby certify that the foregoing "REPLY COMMENTS" was served this 19th day of June, 1997, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

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